

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Case No. 13-cr-25-PB

James Joyce, et al.

O R D E R

Defendant Hon Luu has moved to continue the June 4, 2013, trial in the above case, citing scheduling conflicts with the current trial date. Specifically, counsel for defendant Luu has a vacation planned for the first week in June, of which he informed the court on the day he was appointed. In addition, counsel has identified several cases which he expects to go to trial between July and September 2013. The government and co-defendants James Joyce, Marie Chacon, Debra Miller, and Michael Cassie all consent to a continuance of the trial date. Defendant Samly Sysouphanh does not consent.

Counsel's preplanned vacation is a proper basis for granting a continuance. See United States v. Gates, 709 F.3d 58, 67 (1st Cir. 2013) (stating that counsel's reasonable vacation was a valid reason for excluding a brief period of time

under the Speedy Trial Act) (citing United States v. Pringle, 751 F.2d 419, 432 (1st Cir. 1984) ("The legislative history of the Speedy Trial Act . . . indicates that scheduling conflicts of either defense or government counsel were intended by Congress to be legitimate grounds for granting a continuance under § 3161(h)(8)."). Additionally, it is neither "unreasonable [n]or unprofessional" for counsel to request a continuance due to a crowded trial schedule. See Belton v. United States, Civil No. 09-cv-345-JD, 2010 WL 2816374, *7 (D.N.H. July 10, 2010) (finding counsel not ineffective when he requested and received continuances due to scheduling conflicts); see also Gates, 709 F.3d at 67 (stating that defense counsel's request for additional time to review discovery provided by the government was a reasonable basis for a continuance).

Counsel has identified with specificity his vacation plans and the cases with which a June trial for this defendant would conflict. Contra United States v. Lloyd, 125 F.3d 1263 (9th Cir. 1997). In addition, this request for a relatively brief continuance is counsel's first. Accordingly, for the reasons stated in the motion and to allow the parties additional time to properly prepare for trial, the court agrees to continue the trial from June 4, 2013, to August 20, 2013. In agreeing to

continue the trial, the court finds pursuant to 18 U.S.C.A. § 3161(h)(7)(A) that, for the above-stated reasons, the ends of justice served in granting a continuance outweigh the best interests of the public and the defendants in a speedy trial.

The May 28, 2013, final pretrial conference is continued to August 13, 2013, at 11:00 a.m.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

May 1, 2013

cc: Roger Chadwick, Jr., Esq.
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